IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY
WRIT PETITION NO : 11677 of 1994

Between:

1. Yelamanchili Kiran Kumar, S/o. Seshagiri Rao, Hindu, aged about 16 years (minor) represented by his mother Yelamanchili Ratna Kumari, W/o Seshagiri Rao, aged about 35 years, Cultivation, R/o. Arugolanu Village.
2. Yelamanchili Ratna Kumari, W/o Seshagiri Rao, Hindu, aged about 35 years, Cultivation, R/o. Arugolanu Village.

(Represented by their General Power of Attorney Agent Sri Movva Dharma Rao, S/o Venkaiah, aged about 70 years, Hindu Cultivation, R/o. Arugolanu Village, Bapulapadu Mandal, Krishna District).

..... PETITIONERS

AND

1. The Krishna District Cooperative Central Bank, Machilipatnam, Krishna District, represented by its General Manager.
2. The Sale Officer, Krishna District Coop. Central Bank Ltd., Nuzvid, Krishna District.
3. Sri M. Gangadhara Rao, S/o Rama Rao, Hindu, aged about 45 years, Cultivation, R/o Arugolanu Village and Post, Bapulapadu Mandal, Krishna District.
(Writ Petition against respondent No. 3 is dismissed for default vide Court Order dated 21.9.1999).

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction, more in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in proposing to sell the items 1 and 4 i.e., an extent of Ac.2.17 cents in R.S No. 181/2 and an extent of Ac.0.44 cents in R.S No. 197/1 of Arugolanu Village, through the impugned Sale Notice in E.P No. 4609/OSD/93-94, dated 26.5.1994 without considering the objection/claim of the petitioners as highly illegal, arbitrary, unjust, unconstitutional and unwarranted being in violation of the provisions of the Andhra Pradesh Cooperative Societies Act and the Rules made thereunder by holding that the items

1 and 4 in the impugned Sale Notice belonging to the petitioners and cannot be brought to sale and pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: Mr. D.RAMESH

Counsel for the Respondent Nos. 1 and 2: Mr. C.V. Mohan Reddy

The Court made the following Order:

The petitioners claim to be the owners of land admeasuring an extent of Ac.2.17 cents in R.S No. 181/2 and an extent of Ac.0.44 cents in R.S No.197/1 of Arugolanu Village. They are aggrieved by the action of the respondents in proposing to sale the same vide sale notice in E.P No. 4609/OSD/93-94 dated 26.4.1994.

The petitioners claim to have submitted their objections on 20.6.1994 before the 2nd respondent requesting for the deletion of items 1 and 4 and proceed with the sale against items 2 and 3 of the sale notice in E.P No. 4609/OSD/93-94. The complaint is that the 2nd respondent without adjudicating the objections preferred by them proceeded further with the sale and at that stage, the present writ petition has been filed. The properties were purchased by the petitioners from the 3rd respondent. The very same properties were mortgaged by the 3rd respondent with the respondent-Bank but the same was not revealed by the 3rd respondent at the time of purchase of the properties by the petitioners. This is the sum and substance of the averments made in the affidavit filed in support of the writ petition.

That no counter affidavit has been filed by the respondents. This Court by its order dated 30.6.1994 directed the stay of sale of properties and the said order is still subsisting as on the date.

In the circumstances, the writ petition is disposed of directing the 2nd respondent-Sale Officer to make an enquiry into the objection

petitions and take appropriate decision thereon in accordance with law. That until consideration of the objections, the respondents cannot proceed further in the matter and direct the properties to sale. No order as to costs.

17..06..2004

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ASSISTANT REGISTRAR

One fair copy to the Hon'ble Mr. Justice B. Sudershan Reddy
(for his lordship's kind perusal).

To

1 The Krishna District Cooperative Central Bank, Machilipatnam, Krishna District, represented by its General Manager.
2 The Sale Officer, Krishna District Coop. Central Bank Ltd., Nuzvid, Krishna District.
3 2 CD copies.